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## SCHEDULES

### SCHEDULE 26

#### TRANSFERS: TAX

#### PART IV

#### TRANSFERS TO SECRETARY OF STATE FROM SRA AND BR

##### *Interpretation*

- 19 In this Part of this Schedule—
- “relevant transfer” means a transfer of property, rights or liabilities by virtue of—
    - (a) a scheme under paragraph 1 of Schedule 21 under which the property, rights or liabilities are transferred to the Secretary of State, or
    - (b) a scheme under paragraph 1 of Schedule 25,
  - “transferee”, in relation to a relevant transfer, means the Secretary of State, and
  - “transferor”, in relation to a relevant transfer, means the person from whom the property, rights or liabilities are transferred.

##### *Chargeable gains: groups*

- 20 (1) Sub-paragraph (2) applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at any time when both were members of the same group of companies (“the old group”), and
  - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a relevant transfer, it is to be regarded for those purposes as so doing by virtue of the relevant transfer and not by virtue of any preparatory transactions.
- (4) In this paragraph “preparatory transaction” means anything done under or by virtue of this Part of this Act for the purpose of initiating, advancing or facilitating the relevant transfer in question.
- (5) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

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*Capital allowances: actual consideration to be the disposal value*

- 21 (1) Sub-paragraphs (2) to (4) apply for the purposes of <sup>[F1]</sup>Part 3 of the Capital Allowances Act], and the other provisions of that Act which are relevant to that Part, if there is a disposal by virtue of a relevant transfer of the relevant interest in—
- (a) an industrial building or structure, or
  - (b) a qualifying hotel or a commercial building or structure.
- (2) The disposal is to be treated as a sale of that relevant interest.
- (3) The sale moneys in respect of that sale are to be taken—
- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
  - (b) if no such capital sum is received, to be nil.
- (4) <sup>[F2]</sup>Sections 567 to 570 of that Act (sales treated as being for alternative amount)] (sales between connected persons or without change of control) are not to have effect in relation to that sale.
- (5) Sub-paragraph (6) applies for determining, in the case of <sup>[F3]</sup>plant or machinery] which is treated for the purposes of <sup>[F4]</sup>the Capital Allowances Act] as disposed of by virtue of a relevant transfer, the amount which (in consequence of that disposal) is to be brought into account as the disposal value of that <sup>[F3]</sup>plant or machinery] for the purposes of <sup>[F5]</sup>section 60 of that Act (meaning of “disposal value” and “disposal event”)] (balancing adjustments).
- (6) The amount is, subject to <sup>[F6]</sup>section 62 of that Act (general limit on amount of disposal value)] to be taken—
- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
  - (b) if no such capital sum is received, to be nil.
- (7) Sub-paragraph (8) applies if, in consequence of a disposal by virtue of a relevant transfer, <sup>[F7]</sup>a person is treated by section 188 of the Capital Allowances Act as ceasing to own a fixture] at any time.
- (8) The amount which, in consequence of that disposal, is to be brought into account as the disposal value of the fixture for the purposes of <sup>[F8]</sup>section 60 of the Capital Allowances Act is, subject to section 62 of that Act], to be taken—
- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that portion of that capital sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of <sup>[F9]</sup>Part 2 of that Act] as expenditure incurred by that person on the provision of the fixture, or
  - (b) if no such capital sum is received, to be nil.
- (9) Sub-paragraphs (3), (6) and (8) have effect despite any other provision of <sup>[F10]</sup>the Capital Allowances Act].

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### Textual Amendments

- F1** Words in Sch. 26 para. 21(1) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(12)
- F2** Words in Sch. 26 para. 21(4) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(13)
- F3** Words in Sch. 26 para. 21(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(14)(a)
- F4** Words in Sch. 26 para. 21(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(14)(b)
- F5** Words in Sch. 26 para. 21(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(14)(c)
- F6** Words in Sch. 26 para. 21(6) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(15)
- F7** Words in Sch. 26 para. 21(7) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(16)
- F8** Words in Sch. 26 para. 21(8) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(17)(a)
- F9** Words in Sch. 26 para. 21(8)(a) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(17)(b)
- F10** Words in Sch. 26 para. 21(9) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, Sch. 2 para. 109(18)

### *Leased assets*

- 22 (1) Sub-paragraphs (2) and (3) apply for the purposes of section 781 of the 1988 Act (assets leased to traders and others) if the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred to a person under a relevant transfer.
- (2) The transfer is to be treated as made without any capital sum having been obtained in respect of the interest by the transferor; and this is so despite section 783(4) of that Act.
- (3) If the interest is an interest under a lease, payments made by the transferor under the lease before the transfer takes effect are to be treated as if they had been made under that lease by the transferee.
- (4) Sub-paragraph (5) applies for the purposes of section 781 of the 1988 Act if a lease, or any other interest in an asset, is granted by the transferor by virtue of provision made under paragraph 5 of Schedule 21 or paragraph 4 of Schedule 25.
- (5) The grant is to be treated as made without any capital sum having been obtained in respect of the lease, or interest, by the transferor; and this is so despite section 783(4) of that Act.
- (6) No charge is to arise under section 781(1) of the 1988 Act by virtue of section 783(2) of that Act in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is or forms part of the consideration obtained (or treated by section 783(4) of that Act as obtained) by the transferor on a disposal by virtue of a relevant transfer of securities of a subsidiary of the transferor.
- (7) Expressions used in this paragraph and in sections 781 to 785 of the 1988 Act have the same meanings in this paragraph as in those sections.

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